

Docket No.: SAHA-10043
Application No.: 10/658,542
Amendment Date: September 11, 2006
Reply of Office Action of: May 9, 2006

REMARKS

Claims 1-8, 11-14, 16, and 18-19 are currently pending in the application. Applicants have canceled claims 9-10, 15, and 17, and amended claims 1, 4, 6, 7, 8, 11, 16, and 18. Applicants request reconsideration of the application in light of the following remarks.

Indication of Condition for Allowance

Applicant wishes to thank the Examiner for the indication of condition for allowance for the above referenced application but for the few formal matters. Applicants believe that all formal matters have been resolved, that the application is in condition for allowance, and respectfully request the same.

Rejections under 35 U.S.C. §112

Claims 1-8 stand rejected by the Examiner under 35 U.S.C. 112. In accordance with this rejection, the claims have been amended to comply with the examiner's suggestions and are now believed to conform with Section 112.

Regarding the Examiner's rejection because the preamble refers to a method of pouring, Applicants have now amended the preamble of claim 1 to recite a method of using a bottle manipulation device. The rest of claims 1-8 describe steps of using the bottle manipulation device.

With regard to the Examiner's assertion that "the steps of moving and snap locking" have no clear antecedent basis, Applicants point out that claim 1, lines 5-8 recite these steps and provide details related to these steps. Claim 8 depends from claim 1 via claim 7. Therefore, the steps of moving and snap locking in claim 8 have antecedent basis in claim 1.

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Applicants respectfully request that the rejection of claims 1-8 under 35 U.S.C. § 112 be withdrawn.

Rejections under 35 U.S.C. § 101

Claim 17 was rejected under 35 U.S.C. § 101 for including “an advertisement”, and as such, was considered by the Examiner to be drawn to non-statutory subject matter. To overcome this rejection, the Applicants have canceled claim 17.

Applicants do not agree since an advertisement is not merely an “arrangement of printed matter”. Rather, an advertisement is considered to add to the utility of a product or process with which it is associated. Clearly, there is no attempt to obtain patent coverage for any particular arrangement of printed matter in this application. Rather, it is the idea of an advertisement being incorporated with the product and method of the present invention. However, Applicants may raise this issue in a subsequent application.

Since the non-statutory subject matter has clearly been canceled, Applicants respectfully request the non-statutory subject matter rejection be withdrawn.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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Claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by Merritt (U.S. Patent No. 6,042,164, hereinafter “Merritt”). Applicants respectfully traverse this rejection and request reconsideration of the claims.

Applicants have incorporated the allowable subject matter of claim 7 into independent claim 1. The Examiner indicated that claim 7 would be allowable if incorporated into claim 1 with all of its limitations. Although a minor limitation of claim 7 has been removed from the matter incorporated in claim 1, Claim 1 as amended appears to be commensurate in scope to claim 15 that was also indicated as allowable. That is, claim 15 did not require the flange being engaged by the hook member. Therefore, the more general engagement of the bottle neck by the hook member now incorporated in claim 1 is considered to not detract from the patentability provided by the various other structural details and steps recited therein. Therefore, claim 1 is considered to be allowable.

Claims 2-3 and 5-8 are considered to be patentable as depending from allowable base claim 1 and for further patentable details therein as may be appreciated by the Examiner.

Claim 4 was also indicated as being allowable if combined with independent claim 1. Applicants have incorporated all the matter of claim 1 into claim 4, and claim 4 is therefore considered to be allowable.

Regarding claim 11, the Examiner indicated that claim 15 would be allowable if combined with independent claim 11. Applicants have incorporated the matter of claim 15 into claim 11 to obtain prompt allowance of claim 11.

Claims 12-14 and 16 are considered to be patentable as depending from allowable base claim 11 and for further patentable details therein as may be appreciated by the Examiner.

Claim 17 has been canceled without traverse to obtain immediate allowance of the matter indicated as being patentable by the Examiner. The rejection of claim 17 is, therefore, obviated.

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Claim 18 was indicated as being allowable by the Examiner. Applicants have incorporated the matter of independent claim 11 into claim 18. Therefore, claim 18 is now considered to be allowable.

Claim 19 is considered to be patentable as depending from allowable base claim 18, and for further patentable details therein as may be appreciated by the Examiner.

Applicants respectfully request that the anticipation rejections of claims 1-3, 5, 6, 11, 12, and 17 be withdrawn, and that a notice of allowance for these claims be sent to Applicants.

Indication of Allowable Subject Matter

The Examiner indicated the allowability of the scope and subject matter of claims 4, 7, 8, 13, 14, 15, 16, 18, and 19, but objected to the form of the claims, they being dependent upon a rejected base claim. Applicants wish to thank the Examiner for this indication of allowable subject matter. The Examiner also rejected claims 4, 7, and 8 for indefiniteness. The format of claims 4 and 18 have been amended herein without changing their scope to incorporate the elements of the respective base claims upon which they depend and all intervening claims, and are therefore allowable. Claim 11 has been amended to include all of the limitations of allowable claim 15 and is therefore allowable. Claim 1 has been amended to include all the significant limitations of allowable claim 7 for patentability as has been explained above. Therefore, claim 1 is considered to be allowable. Claims 9-10 and 17 have been canceled herein in favor of a continuation application which will pursue these claims further. All remaining dependent claims depend from one of the allowable claims 1, 11, and 18. Therefore all the claims are now allowable and notice thereof is earnestly requested.

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Regarding Doctrine of Equivalents

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

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CONCLUSION

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

It is requested that a one-month extension of time be granted for the filing of this response, and the appropriate extension filing fee of \$60.00 be charged to Deposit Account 19-0513.

The amendments herein added one new independent and no new dependent claims, resulting in fees due of \$100.00.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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By _____
David E. Allred
Reg. No. 47,254



SCHMEISER, OLSEN & WATTS LLP
18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073